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# All Eyes Forward: Public Engagement and Educational Reform in Kentucky

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## Abstract

Kentucky has initiated and sustained what many consider to be the most comprehensive current statewide education reforms in the nation. This article explores the factors that led Kentucky to establish and maintain this unique judicial and legislative reform initiative. The author suggests that a variety of non-governmental organizations have played a critical role and traces fifteen years of advocacy and public engagement efforts to improve public education. The work of many of these groups has never before been significantly documented.

## Introduction

Before the Kentucky Supreme Court's 1989 decision in *Rose v. Council for Better Education*,<sup>2</sup> Kentucky's schools were among the worst in the nation and its citizens among the least educated. The level of education funding was inadequate throughout the state, and because of the system's heavy reliance on local property taxes, property-poor districts were gravely short of revenues for their schools. After a decade of growing awareness of these problems, the state's supreme court ruled that the state was responsible for adequately and equitably funding the public schools.

Issuance of the *Rose* decision was a pivotal moment in Kentucky education history. The legislature's prompt, positive response to the court's order moved the Commonwealth to the forefront of the national education reform movement and built a new financing system that directed a higher proportion of state money to low-wealth districts. Sweeping changes in education and school funding drew immediate attention from educators and finance experts alike. But even more impressive now—nine years later—Kentucky has stayed the course. Other states that have tried to institute changes of a similar nature have

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1. Molly A. Hunter, Esq. is Director of Legal Research at the Campaign for Fiscal Equity, Inc. The author wishes to thank the many Kentuckians and others cited in this article who gave generously of their time and extensive knowledge on the subject. An earlier version of this article appeared in April 1998 in the Campaign for Fiscal Equity's monograph series STUDIES IN JUDICIAL REMEDIES AND PUBLIC ENGAGEMENT.

2. 790 S.W.2d 186 (Ky. 1989).

often failed at the outset or experienced significant backsliding. In Kentucky, however, school funding statewide has increased dramatically, the gap between revenue per pupil in high-wealth and low-wealth districts has narrowed by 59%, and all schools have adopted at least some innovative education reforms.

Why has Kentucky been able to enact and sustain what other states have not? What have been the keys to obtaining and maintaining this remedy? The answers must be sought in: 1) the history of education and education finance in Kentucky prior to the lawsuit; 2) the impetus and political cover afforded by the court's bold decision; and 3) the extensive statewide efforts that have encouraged members of local school communities to remain engaged in the process of implementing and evaluating education reforms and governing their schools.

## I. Kentucky Education and Education Finance Before *Rose*

### The State of Learning

In the 1980s, Kentucky was fiftieth among the states in adult literacy and adults with high school diplomas, forty-ninth in college-going rate, and forty-eighth in per pupil and per capita expenditures on public schools.<sup>3</sup> Only 68% of ninth graders were graduating from high school in four years, and in the Appalachian counties over 48% of the population was functionally illiterate.<sup>4</sup> Kentucky ranked in the lower 20 to 25% nationally in virtually every category used to evaluate educational achievement, and it consistently ranked near the bottom in educational achievement and spending when compared to its seven surrounding states.<sup>5</sup>

Within Kentucky, the state's 178 school districts provided greatly disparate educational opportunities to their students. The highest spending district had per pupil revenues two and a half times the revenues of the lowest spending district.<sup>6</sup> In many poor rural districts, class sizes were large; science, art, and music curricula and necessary supports, such as laboratories and equipment, were sparse. Children attended dilapidated schools and competed in fundraising contests to pay for basic school supplies.<sup>7</sup> As a result, student test scores

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3. 1 THE PARTNERSHIP FOR KENTUCKY SCHOOL REFORM, FROM DILEMMA TO OPPORTUNITY: A REPORT ON EDUCATION REFORM IN KENTUCKY 5-6 (1996) [hereinafter DILEMMA TO OPPORTUNITY].

4. C. Scott Trimble & Andrew C. Forsaith, *Achieving Equity and Excellence in Kentucky Education*, 28 J. LAW REFORM 599, 601 (1995) (citing Anne E. Keating, *You Get What You Pay For: Financing Public Schools in Kentucky*, KY. BENCH & BAR (Winter 1993)).

5. Rose, 790 S.W.2d at 197.

6. RONALD G. DOVE, JR., ACORNS IN A MOUNTAIN POOL: THE ROLE OF LITIGATION, LAW AND LAWYERS IN KENTUCKY EDUCATION REFORM 1-2 (June 1991) [hereinafter ACORNS IN A MOUNTAIN POOL].

7. DILEMMA TO OPPORTUNITY, *supra* note 3, at 4; ACORNS IN A MOUNTAIN POOL at 2.

in these districts were dismally low.<sup>8</sup> In addition, entrenched local leadership, combined with the fact that the schools were the largest employers in some rural counties, sometimes led to mismanagement and corruption.<sup>9</sup>

However, the disparities among school districts partially obscured a bigger problem in Kentucky's educational system: pervasive inadequacy. Some Kentucky leaders felt that their state had the most poorly educated workforce in the country and was in danger of becoming "the nation's premier economic backwater."<sup>10</sup> Ninety percent of companies looking to relocate rejected Kentucky, largely due to its inadequate schools and undereducated workforce.<sup>11</sup> This systemic mediocrity contributed to a cycle of unemployment and poverty. In the 1980s, Kentucky ranked seventh highest in the nation in unemployment and percentage of children living in poverty. Per capita income was forty-fifth among the fifty states, and better-educated Kentuckians were migrating to states with more job opportunities.<sup>12</sup>

### Public School Finance—One Step Forward, One Step Back

Before the *Rose* decision, Kentucky's per pupil spending on public education was only 79% of the national average.<sup>13</sup> The state provided a larger share of combined state and local education funding than most states, about 70 percent. Because Kentucky had such a high poverty rate, it received 13.3% of its education funds from the federal government, earning it the dubious distinction of ranking first in the nation in that category.<sup>14</sup>

Historically, the state had distributed revenues designated for education on a per pupil basis, pursuant to an express provision of the state constitution.<sup>15</sup> By 1954, a series of amendments to the constitution had eliminated the per pupil allocation restriction on state funds, and the General Assembly created the Minimum Foundation Program (MFP) "to assure substantially equal educa-

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8. Report by the Select Committee to Judge Ray Corns, Franklin Circuit Court, September 15, 1988 (reprinted as Kern Alexander, et al., *Constitutional Intent: "System," "Common," and "Efficient" as Terms of Art*, 15 J. EDUC. FIN. 142, 156 (Fall 1989) [hereinafter *Constitutional Intent*]).

9. THE PRICHARD COMMITTEE FOR ACADEMIC EXCELLENCE, *THE PATH TO A LARGER LIFE: CREATING KENTUCKY'S EDUCATION FUTURE xvii* (1990 edition) [hereinafter *PATH TO A LARGER LIFE*]. In some school districts, a majority of the employees literally had the same last name. Interview with Ginny Eager, Director, Forward in the Fifth (November 20, 1997).

10. *DILEMMA TO OPPORTUNITY*, *supra* note 3, at 5.

11. Judge Ray Corns, Remarks at National Organization on Legal Problems in Education Conference (Nov. 19, 1994) (referring to Report of the Kentucky Chamber of Commerce Task Force on Education (1983)).

12. DR. ROBERT F. SEXTON, *NEW HOPE FOR BETTER SCHOOLS* (1988) [hereinafter *NEW HOPE*].

13. *PATH TO A LARGER LIFE*, *supra* note 9, at 110.

14. *DILEMMA TO OPPORTUNITY*, *supra* note 3, at 6.

15. KY. CONST. of 1890, § 186 (amended 1953).

tional opportunities.”<sup>16</sup> However, the MFP provided little relief to low-wealth districts because it offered no incentive to raise local taxes or improve the assessment process, which often greatly under-reported property values.<sup>17</sup>

In 1965, the Kentucky Supreme Court interpreted the Kentucky Constitution to require that all taxable property be assessed at 100% of fair market value. This change promised to increase local school revenues significantly and reduce inequities. But the governor almost immediately called a special session of the General Assembly to pass a “rollback law” that eviscerated the effects of the court’s decision.

In 1972, the General Assembly ended the cap on local property taxes and adjusted the assessment process to recognize increasing property values. Four years later, it established the District Power Equalization Program (DPEP) to shift a larger proportion of state funding to property-poor districts. DPEP’s impact was minimal, however, because only a small portion of local tax effort was subject to equalization. Even these small steps forward were rescinded when, in 1979, a special session of the General Assembly enacted another rollback law. From 1979 to 1981, property tax rates declined by almost 33% while assessed property values rose. The net result was no appreciable growth in local revenues for schools.<sup>18</sup>

During the 1980s, Kentucky property taxes remained low while education inadequacies and inequities persisted. Widely disparate property values, assessments, and tax rates generated annual school district revenues from \$78 to \$3,867 per pupil. Expenditures on instruction ranged from \$1,499 to \$3,709 per pupil, and the ratio of students to classroom teachers ranged from 11.8 to 20.2.<sup>19</sup> Kentucky’s overall state and local tax effort—after eliminating the effects of taxing capacity—was only 89% of the national average. Property taxes were the largest source of revenues, followed closely by the general sales tax. However, tax effort compared to national averages was only 62% for

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16. Act of Mar. 22, 1954, ch. 214, 1954 Ky. Acts 590 (repealed 1974); KY. REV. STAT. ANN. § 157.310 (Michie 1996). Although this goal was not achieved through the MFP, the statement of purpose foreshadowed the goals that Kentucky chose to pursue years later.

17. Assessments ranged from 12.5% to 33.5% of fair market values. *Rose*, 790 S.W.2d at 194-95. See *Cheating Our Children*, LEXINGTON HERALD-LEADER, August through November 1989 (award winning series on property assessment and property tax collection abuses).

18. *Rose*, 790 S.W.2d at 196.

19. OFFICE OF EDUCATION ACCOUNTABILITY (OEA), KENTUCKY GENERAL ASSEMBLY, ANNUAL REPORT, Tables 20, 26 and 28 (December 1996) [hereinafter OEA 1996 ANNUAL REPORT]; Jacob E. Adams, Jr., *School Finance Reform and Systemic School Change: Reconstituting Kentucky's Public Schools*, 18 J. EDUC. FIN. 318, 331 (Spring 1993) [hereinafter *School Finance Reform*]. For the school year 1989-90, tax rates ranged from \$0.23 to \$1.11 per \$100 of assessed value, per pupil property wealth from \$38,031 to \$343,822, and average teacher salaries from \$21,718 to \$30,379. *Id.*

property and 82% for general sales. Thus, these underutilized taxes were the most likely candidates for any subsequent tax increase.<sup>20</sup>

### Public Dialogue

As one commentator has noted, Kentucky's "one step forward, one step back" approach to education [finance] reform suggests that social, political, and legal forces were never truly in sync.<sup>21</sup> However, by 1989, when *Rose v. Council for Better Education* was before the Kentucky Supreme Court, significant public and business concern about the quality of education had altered the political landscape. Citizens had participated in a statewide forum on education which spawned many local efforts. The editors of the two major newspapers were expressing their support for education reform, and one of the largest employers in the state was running newspaper advertisements explaining the importance of education. A coalition of education organizations and the governor were acknowledging the need for education and finance reform.

This dramatic change was generated at least in part by the Prichard Committee for Academic Excellence ("Prichard Committee"). The Prichard Committee was founded in 1983 by the members of the former Committee on Higher Education in Kentucky's Future, a group chaired by Edward F. Prichard. While preparing their report on higher education, committee members saw the need for "radical improvement" in elementary and secondary education in Kentucky.<sup>22</sup> To pursue this goal they established the Prichard Committee as a not-for-profit, independent, volunteer citizens advocacy organization. Its mission was to publicize the need for school improvements and build public support for significant school reform legislation.<sup>23</sup>

The Prichard Committee expanded from thirty members to sixty, and its resulting membership represented a balance of opinion makers, parents of school children, and good-government advocates. Some members were very visible, such as former governors and business leaders; others were less so, such as parents active in their local schools. Although undoubtedly there were elected officials and educators who shared the committee's education improvement goals, they were not invited to join because the committee wanted to be,

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20. For example, raising property taxes to the national average rate would have generated over \$400 million annually. *PATH TO A LARGER LIFE*, *supra* note 9, at 99-113 (citing ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, 1986 STATE FISCAL CAPACITY AND EFFORT, REPORT M-165 (1989)).

21. *ACORNS IN A MOUNTAIN POOL*, *supra* note 6, at 5.

22. *PATH TO A LARGER LIFE*, *supra* note 9, at xiii.

23. JACOB E. ADAMS, JR., *THE PRICHARD COMMITTEE FOR ACADEMIC EXCELLENCE: CREDIBLE ADVOCACY FOR KENTUCKY SCHOOLS 2* (December 1993) [hereinafter *CREDIBLE ADVOCACY*].

and appear to be, independent from both government and the schools.<sup>24</sup> Members successfully sought contributions to support the committee's efforts, and funding came primarily from private businesses, individuals, and a few small Kentucky foundations.<sup>25</sup> From 1983 to 1989, the Prichard Committee helped stimulate a statewide public dialogue among citizens, educators, and members of the business community on school improvement.<sup>26</sup>

The Prichard Committee's members served on subcommittees that studied education-related issues and formulated recommendations. For example, one subcommittee analyzed economic and demographic trends and broadly disseminated the findings. These studies found that major sectors of employment, such as farming and manufacturing, were declining and likely to be replaced by jobs requiring higher level skills. They also found that in 1910, there had been seventeen workers for each retired person in Kentucky; by 2010 there would be only two or three workers per retiree. The Prichard Committee concluded that "our children needed to be able to get better jobs and therefore needed better education."<sup>27</sup>

Business support for education reform came early and stayed.<sup>28</sup> The business community offered a quid pro quo: if Kentucky policy makers and educators would seriously and substantially reinvent schools and make public education accountable for its results, business would support them and pay the resulting higher taxes. Why would the business community make such a seemingly radical proposal? First, business saw "a black cloud of doom" with respect to Kentucky high school graduates and dropouts being ill-equipped to fill available jobs. Second, companies such as Ashland Oil, one of the three largest employers in the state, wanted to attract and keep employees—who wanted their children to attend good schools—and needed an adequate supply of well-educated workers.<sup>29</sup> Finally, the Kentucky Chamber of Commerce had documented its lack of ability to sell the state to businesses, largely because of the weak educational system.<sup>30</sup> Kentucky, along with Mississippi and Louisi-

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24. *Id.* at 18; Interview with Cindy Heine, Associate Executive Director of the Prichard Committee (September 24 and December 12, 1997). Ms. Heine became a Prichard Committee member in 1983 and joined the staff in 1989.

25. *PATH TO A LARGER LIFE*, *supra* note 9, at xiii. From 1983 to 1990, more than 300 donors contributed over one million dollars. *CREDIBLE ADVOCACY*, *supra* note 23 at 19.

26. Robert F. Sexton, *Exploring Topics in Education* (Prichard Committee, Lexington, Ky.) May 1994; *CREDIBLE ADVOCACY*, *supra* note 23, at 17.

27. Heine Interview, *supra* note 24.

28. *Id.* "The employers see so clearly the need [for better schools]."

29. Interview with Carolyn Witt Jones, Director, The Partnership for Kentucky Schools (Oct. 23, 1997 and May 4, 1999); *DILEMMA TO OPPORTUNITY*, *supra* note 3, at 5; *Chamber of Commerce Joins the Fray*, *LEXINGTON HERALD-LEADER*, July 9, 1989. (Ms. Jones is a former teacher and strategic planner).

30. Remarks of Judge Ray Corns, *supra* note 11.

ana, was among the states least attractive to business. These conditions described a crisis and therefore business rallied.<sup>31</sup>

Other efforts on behalf of public education were also essential. For example, a 1985 report that Kentucky's Fifth Congressional District was the nation's worst in education motivated citizens there to push for reform. Asked by business leaders who had grown up in the region to study the situation, the Mountain Association for Community Economic Development (MACED) found that the region had a high dropout rate, and that those students who succeeded in school generally left the region. MACED recommended the formation of Forward in the Fifth, a private nonprofit Local Education Fund and member of the national Public Education Network. Forward in the Fifth established Affiliates in all twenty-seven counties within the Fifth District. Their school improvement goal, which necessarily included more local tax revenues, was especially challenging in the face of long-standing traditions of nepotism.<sup>32</sup>

The Kentucky media consistently supported education reforms and the need to fund them.<sup>33</sup> The state's two major newspapers made education a high priority. In a prize-winning investigation of local tax assessment practices, the *Lexington Herald-Leader* disclosed cases of nepotism and tax fraud.<sup>34</sup> Moreover, media access helped the Prichard Committee deliver its message to a broad audience and, at the same time, develop its reputation as a citizens' voice for better schools.<sup>35</sup>

On November 15, 1984, the Prichard Committee gained exposure and credibility by convening a statewide forum on education, broadcast via Kentucky Educational Television. The forum included 140 local sites, with at least one in each of the state's 120 counties. The general public was invited to participate, and nearly 20,000 people attended. To successfully conduct such a large, far-flung forum, the committee collaborated with local PTAs, Chambers of Commerce, chapters of the League of Women Voters, and similar organizations. Ashland Oil, a leader in raising public awareness of the importance of higher quality education, provided primary funding for the forum, including

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31. Jones Interview, *supra* note 29; DILEMMA TO OPPORTUNITY at vi.

32. Eager Interview, *supra* note 9. After reapportionment in 1991, Forward in the Fifth added 12 counties so it could continue to serve the entire Fifth District and retain all of its prior counties. Its Affiliates support education in all 55 school districts in these 39 counties. *Id.*

33. "Positive media coverage about education reform results from specific, concerted, strategic efforts. The Prichard Committee has been very sophisticated about that in Kentucky." Interview with Susan Traiman, Director, Education Initiative, The Business Roundtable (November 6, 1997).

34. *Cheating Our Children*, August through November, 1989.

35. ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 31-32; CREDIBLE ADVOCACY, *supra* note 23, at 2-3, 8, 23; Heine Interview, *supra* note 24.

money for radio and print media announcements and materials distributed at each site.<sup>36</sup>

The Prichard Committee viewed its role at the forum as listening, not promoting any particular point of view.<sup>37</sup> Local citizens were trained to facilitate participation at the town forum sites. The forum revealed that Kentucky citizens placed a high priority on education and provided an early step toward a grassroots mandate for change.<sup>38</sup> Years later, the Prichard Committee reflected on the forum as having set the pattern and tone—"open citizen dialogue and active citizen involvement"—that characterized its subsequent work.<sup>39</sup>

The forum motivated and mobilized people, as participants in as many as fifty sites formed local organizations to press for education reforms in their home districts. They felt legitimized and called themselves, for instance, the Floyd County Prichard Committee. Not surprisingly, they asked the Prichard Committee for support, but that was a difficult challenge for such a small, lightly funded entity. In response, the committee retained Roberts & Kay, a consulting firm, to design and conduct six regional Citizen Action Workshops for members of the local organizations. The workshops taught basic organizational skills such as how to run an effective meeting and how to organize people around school issues.<sup>40</sup>

Separately, and after more than a year of organizing among superintendents, sixty-six property-poor rural school districts incorporated the Council for Better Education ("Council") in early 1985 to seek more equitable funding for their schools through the courts.<sup>41</sup> Initial reaction from politicians was fiercely critical.<sup>42</sup> The Council obtained the pro bono services of a former governor and member of the Prichard Committee, Bert Combs, as lead counsel.<sup>43</sup> In the summer of 1985, with impetus from this potential litigation and the televised statewide forum, the governor called a special session of the legislature to

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36. Interview with Dr. Robert F. Sexton, Executive Director of the Prichard Committee (April 10, 1997); CREDIBLE ADVOCACY, *supra* note 23, at 3.

37. As delineated by the Executive Director of Public Agenda, the principles of public engagement begin with listening. See Deborah Wadsworth, *Building a Strategy for Successful Public Engagement*, 78 PHI DELTA KAPPAN 10, 752 (June 1997).

38. Heine Interview, *supra* note 24; Sexton Interview, *supra* note 36. Dr. Sexton noted that the wide base of support was not deep, in that many people did not necessarily understand the particulars of reform.

39. CREDIBLE ADVOCACY, *supra* note 23, at 3 (citing the Prichard Committee's 1992 proposal to the Carnegie Corporation for continuation funding). For a more thorough discussion of the televised statewide forum, see *id.* and ACORNS IN A MOUNTAIN POOL, *supra* note 6 at 31-32.

40. Heine Interview, *supra* note 24. The Prichard Committee obtained a small amount of separate funding to retain these consultants. *Id.*

41. Woody Barwick, *A Chronology of the Kentucky Case*, 15 J. EDUC. FIN. 136, 138 (Fall 1989) (seven local school boards and 22 students joined the Council as plaintiffs shortly thereafter).

42. ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 7, 13.

43. CREDIBLE ADVOCACY, *supra* note 23, at 9.

consider a proposed education improvement program. By November, however, Council members realized that the resulting legislation provided little relief for poor districts, so they filed the suit that became known as *Rose v. Council for Better Education*.<sup>44</sup>

Also in 1985, the Prichard Committee published *The Path to a Larger Life: Creating Kentucky's Educational Future*. This 150-page report was the culmination of the work of the member subcommittees that had been studying education-related issues. It proposed systemic education reform under seven themes: the teaching profession, education goals and curriculum, leadership and governance, commitment to children, assessments, vocational education, and finance. The report made eighty-two recommendations ranging from overarching concerns, such as comprehensive professional development for teachers and outcome-based evaluations, to specific proposals, such as a constitutional amendment for an appointed Superintendent of Public Instruction.<sup>45</sup> Because it was perceived as advocacy for children and schools, not for the committee members' self interests, the report added to the Prichard Committee's public credibility.<sup>46</sup>

After issuing *The Path to a Larger Life*, the Prichard Committee focused its energies on a statewide public awareness campaign to fuel interest in better schools and to rally support for education reforms and increased funding. Executive Director Robert Sexton attended as many Rotary Club and Kiwanis meetings as he could, primarily to sound an alarm about the depth and urgency of the state's educational deficiencies and the economic and social "underdevelopment" that they engendered. Some members of the committee also gave speeches and offered testimony before legislative committees.<sup>47</sup> The earlier demographic, economic, and other subcommittee studies supplied the interstate comparisons and in-state trends that helped listeners understand the problems and see the need for change. The committee also presented potential means for improvement, such as early childhood education programs, advancement of the teaching profession, and more competent and honest school district leadership.<sup>48</sup>

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44. *Id.* at 3; ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 11-12.

45. PATH TO A LARGER LIFE, *supra* note 9. The report's student achievement indicators foreshadowed those delineated by the Kentucky Supreme Court in its *Rose* decision four years later. *Id.* at 119-22. Many of the report's themes and some specific proposals were later included in the Kentucky Education Reform Act of 1990. LOUISVILLE COURIER-JOURNAL, April 11, 1990.

46. CREDIBLE ADVOCACY, *supra* note 23, at 8 and 3 (quoting a LOUISVILLE COURIER-JOURNAL editorial, January 2, 1985, that said, "The Prichard Committee is an essential anchor, because it is focused on long-term objectives, and, perhaps more important, because it is free of ties to any special political or educational interest").

47. CREDIBLE ADVOCACY, *supra* note 23, at 25; Heine Interview, *supra* note 24.

48. NEW HOPE, *supra* note 12.

One of the keys to the Prichard Committee's success was broad dissemination of information to interested people across the state, with the express purpose of enabling recipients to speak up in their communities. The committee provided information to local participants, who felt they could not rely on the state department of education because it was too politicized.<sup>49</sup> For citizens in school districts where school boards were the largest employers in the county, the committee served as an important source of "courage" to get involved. By offering information, training sessions, and a vision of local citizen groups coming together to solve problems and improve their schools, the committee, along with business, the media, and other groups, stimulated public engagement about education throughout the state.<sup>50</sup>

In 1988, an unusual collaboration of organizations established the Education Coalition. For the first time, all of the state's major education interest groups joined with business, religious, and advocacy groups in a common reform effort.<sup>51</sup> Although the coalition represents diverse views and interests, it was able to internally negotiate agreement on potentially divisive educational issues and to present unified positions to the public and legislative policy makers. Some credit the diversity of the coalition and a growing momentum towards school reform with keeping the education interest groups at the table and helping them work out their differences.<sup>52</sup>

## II. The Amazing Decision: *Rose v. Council for Better Education*

### Education Finance System Found Unconstitutional

In the midst of growing concern about the quality of public education in Kentucky, *Rose v. Council for Better Education* went to trial in 1987. Prichard Committee staff testified at the trial, and members and staff reviewed legal briefs in advance of their filing with the court.<sup>53</sup> In March 1988, while the trial court was reviewing the evidence, the Prichard Committee filed an amicus brief emphasizing the need for education and governance reforms in addition to the

49. Heine Interview, *supra* note 24.

50. CREDIBLE ADVOCACY, *supra* note 23, at 25-26. For a definition of public engagement, see Wadsworth, *supra* note 37, at 749.

51. The groups included the Kentucky School Boards Association, Kentucky Association of School Administrators, Kentucky Association of School Superintendents, Kentucky Congress of Parents and Teachers (PTA), and the Kentucky Education Association. They joined with the Kentucky Department of Education, Catholic Conference of Kentucky, Kentucky Educational Foundation, Kentucky Chamber of Commerce, and the Prichard Committee to establish the coalition. CREDIBLE ADVOCACY, *supra* note 23, at 7.

52. *Id.*; Interview with Dr. Robert F. Sexton, *supra* note 36; Heine Interview, *supra* note 24.

53. D. Frank Vinik, *The Contrasting Politics of Remedy: The Alabama and Kentucky School Equity Finding Suits*, 22 J. EDUC. FIN. 60, 77 (Summer 1996) (citing Ray Cohn, *Tax Increase Needed for Schools, 3 Testify*, LEXINGTON HERALD-LEADER, Aug. 6, 1987); CREDIBLE ADVOCACY, *supra* note 23, at 9.

finance reform argued by plaintiffs.<sup>54</sup> Also in March, a rally sponsored by the Kentucky Education Association (KEA), demanding more money for schools, drew tens of thousands of educators, parents, and schoolchildren to Frankfort, the state capital.<sup>55</sup>

In May 1988, the trial court ruled that the state's education finance system violated the Kentucky Constitution. Although later criticized by the Kentucky Supreme Court for improperly delegating his judicial authority, trial judge Ray Corns stayed his decision on the appropriate remedy for six months, and appointed a select committee to advise him on the parameters of the education system envisioned by the framers of the Kentucky Constitution.<sup>56</sup> The select committee held five public meetings around the state, one attended by the governor and all covered extensively and favorably by the press.<sup>57</sup>

The select committee's interpretations of the education section of the constitution reflected expert testimony presented by plaintiffs at trial. The constitution requires the General Assembly to establish "an efficient system of common schools throughout the Commonwealth."<sup>58</sup> Basing its analysis primarily on historical documents, the select committee interpreted the phrase "system of common schools" to mean that the schools must be free and open to all children and that the system must be equal and uniform throughout the state. In a more creative analysis, the select committee determined that the word "efficient" means that the schools must be, *inter alia*, "adequate" and that "adequate schools" must produce a society of individuals who possess certain skills and knowledge that enable them to function in a complex, rapidly changing world. The select committee enumerated five student outcomes that Kentucky's system of common schools would have to produce to be considered "adequate."<sup>59</sup> The trial court substantially adopted the select committee's conclusions and included them in its written opinion.<sup>60</sup>

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54. Heine Interview, *supra* note 24.

55. ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 17.

56. *Rose* at 215. See also *Constitutional Intent*, *supra* note 8 (presenting the Report by the Select Committee to Judge Ray Corns, Franklin Circuit Court, September 15, 1998). The Select Committee was chaired by Kern Alexander, who had testified for plaintiffs and was president of Western Kentucky University.

57. Barwick, *supra* note 41, at 141; ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 19 (citing LEXINGTON HERALD-LEADER, July 6, 1988, at A1 (reporting on first public hearing) and LEXINGTON HERALD-LEADER, July 7, 1988, at B1 (reporting on second public hearing)).

58. KY. CONST. § 183.

59. *Constitutional Intent*, *supra* note 8, at 147-154. The student outcomes were: oral and written communication skills, knowledge of economic and social systems sufficient to make informed choices, an understanding of governmental processes sufficient to perpetuate a democratic government, enough knowledge to attend to their own wellness, and sufficient grounding in the arts to appreciate our cultural and historical heritage. *Id.* at 154.

60. Council for Better Educ. v. Wilkinson, No. 85-CI-1759 (Franklin Circuit Court, Div. I, October 14, 1988).

Media coverage of the trial court's decision was favorable, but some legislators noted that the decision would likely lead to higher taxes. In what some viewed as an attempt to intimidate the superintendents, the state audited plaintiff school districts. However, there were no significant findings.<sup>61</sup> Legislative leaders Rose and Blandford decided to appeal the decision, but the governor did not appeal. Instead, he announced his agreement with the trial court ruling. The Kentucky Supreme Court agreed to hear the appeal directly, bypassing the appellate intermediate court.<sup>62</sup>

By 1989, when the *Rose* appeal was before the Kentucky Supreme Court, public opinion on education and education funding in Kentucky had clearly shifted. The proportion of taxpayers willing to support improved schools through increased taxes had moved from 49 to 67 percent.<sup>63</sup> Education stakeholders credited the Prichard Committee as a "prime force" affecting this change—by raising public and political awareness, achieving significant consensus through the Education Coalition, and bringing citizens into the policy and political arena.<sup>64</sup> As the appeal went forward, advocates for improving the schools continued to press for change, and the media continued to give education front-page coverage.<sup>65</sup>

### Kentucky's Entire System of Common Schools Found Unconstitutional

On appeal, plaintiffs urged the Kentucky Supreme Court to affirm the lower court's finding that the state's education finance system was unconstitutional. However, the supreme court reached far beyond the finance system and declared that "Kentucky's *entire system* of common schools is unconstitutional."<sup>66</sup> Plaintiffs' attorneys were "amazed."<sup>67</sup>

61. The Executive Editor, *The Kentucky Case Introduction*, 15 J. EDUC. FIN. 134, 135 (Fall 1989); ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 35.

62. *Id.* at 18-20.

63. Issues in Education: A Report on Public Opinion in Kentucky, Survey Research Center, University of Kentucky, 1983, asked interviewees whether they favored or opposed increased taxes to raise money for schools; *Bluegrass State Poll on Education*, LOUISVILLE COURIER-JOURNAL, Aug. 6, 1989, asked interviewees whether they were willing to have state taxes increased if they were sure the money would be used to improve the public schools (as cited in PATH TO A LARGER LIFE, *supra* note 9, at xxiv).

64. CREDIBLE ADVOCACY, *supra* note 23, at 24-26. The stakeholders included legislative staff, Department of Education officials, representatives of the Kentucky Education Association, Council on Higher Education, and Kentucky School Boards Association, business executives, news reporters, and the author of the *Rose* decision. *Id.* at ii, 24.

65. For example, the Prichard Committee, with funding from Ashland Oil, distributed 100,000 postcards and placed public service announcements and newspaper ads for "Better Schools Now." Thousands of postcards were received by the governor and legislators. *Id.* at 24. (See also Robert T. Garrett, et al., *Sources Say Ruling Will Require That Taxation Be More Uniform*, LOUISVILLE COURIER-JOURNAL, June 7, 1989, at A1; ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 31 (citing LOUISVILLE COURIER-JOURNAL, Dec. 8, 1988, at A1 and LEXINGTON HERALD-LEADER, Oct. 18, 1988, at A10).

66. *Rose*, 790 S.W.2d, at 215 (emphasis in original).

67. Interview with Debra Dawahare, Wyatt, Tarant & Combs, counsel to plaintiffs (July 17, 1993).

The court characterized its repudiation of the entire system of common schools in a positive light, stating that it intended no criticism. Rather, the court viewed its decision as "an opportunity for the General Assembly to launch the Commonwealth into a new era of educational opportunity which will ensure a strong economic, cultural and political future."<sup>68</sup> Hence, the court echoed a long-standing theme of Kentucky's education change proponents.<sup>69</sup>

The 1989 *Rose* opinion was one of the most far-reaching fiscal equity decisions ever issued and has been cited by other courts deciding similar suits ever since.<sup>70</sup> In reaching its conclusions, the court took unequivocal stands on three major questions. First, based on statements by the framers of the Kentucky constitution in 1890, the court declared education a fundamental right.<sup>71</sup> Therefore, the court held, the schools must "provide equal educational opportunities to all Kentucky children . . ." <sup>72</sup> Second, the court accepted as obvious the expert testimony that showed "a definite correlation between the money spent per child on education [ , ] the quality of education received," and student test scores.<sup>73</sup> Third, the court placed "sole responsibility" for the public schools in the hands of the General Assembly.<sup>74</sup> Although this determination was aptly grounded in the language of the constitution, the court did not address the countervailing tradition of local control.

The supreme court relied on the trial court record, which included abundant evidence of educational inadequacy and funding inequities in Kentucky. But it also addressed defendants' evidence that blamed plaintiff school districts for their own plight. The court concluded that "[e]ven a total elimination of mismanagement and waste" would not be sufficient to compensate for the lack of financial resources and inadequate curricula in the plaintiff school districts.<sup>75</sup>

Affirming the constitutional interpretation of the trial court, the supreme court interpreted the word "efficient" to include "adequate" and expansively defined adequate to include student outcomes.<sup>76</sup> The court boldly enumerated

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68. *Rose*, 790 S.W.2d, at 216.

69. PATH TO A LARGER LIFE, *supra* note 9, at xxi.

70. *See, e.g.*, *McDuffy v. Sec'y*, 615 N.E.2d 516, 554 (Mass. 1993); *Opinion of the Justices*, 624 So.2d 107, 107-08 (Ala. 1993); *Claremont Sch. Dist. v. Governor*, 635 A.2d 1375, 1378 (N.H. 1993); *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997); *Abbeville County Sch. Dist. v. State*, Opinion No. 24939 (S.C. April 22, 1999).

71. *Rose*, 790 S.W.2d, at 206.

72. *Id.* at 212.

73. *Id.* at 197-98. For a broader discussion of the connection between resources and student achievement, see Michael A. Rebell, *Fiscal Equity in Education: Deconstructing the Reigning Myths and Facing Reality*, 23 N.Y.U. REV. L. & SOC. CHANGE 691 (1994-95); *See also Washakie County Sch. Dist. No. 1 v. Herschler*, 606 P.2d 310 (Wyo. 1980).

74. *Rose*, 790 S.W.2d, at 212.

75. *Id.* at 197.

76. Supreme courts in other states have adopted the *Rose* language to define an efficient or adequate education or a sound basic education. *See supra*, note 70.

seven education capacities that Kentucky schools must have as their goal to provide to each child.<sup>77</sup> It then ordered that:

The General Assembly shall provide funding which is sufficient to provide each child in Kentucky an adequate education. . . . An adequate education is one which has as its goal the development of the seven capacities recited previously. . . . The General Assembly has the obligation to see that *all property* is assessed at 100 percent of its fair market value. . . . the General Assembly must establish a uniform *tax rate* for such property [so that] all owners . . . throughout the *state* will make a comparable effort in the financing of the state system of common schools. (emphasis in original)<sup>78</sup>

Reactions to the court's decree from the governor, legislators, and the media were generally positive.<sup>79</sup> The governor stated that he had been saying "the school-finance system is unconstitutional" for three years. House Speaker Blandford said, "We're going to have to go back to the drawing board," while defendant Senator Rose noted that the issues would be dealt with in a special session of the legislature called in the next few months.<sup>80</sup> A *Louisville Courier-Journal* editorial entitled "Golden Opportunity" urged the state to "seize the moment."<sup>81</sup> And seize the moment is exactly what the state did.

### III. A Model for the Nation: The Kentucky Education Reform Act of 1990

Less than a year after the court's decision in *Rose*, the Kentucky legislature had passed and the governor had signed the Kentucky Education Reform Act of 1990 ("KERA"). The speed with which the General Assembly acted was astonishing for two reasons. In other states, responses to parallel court decrees

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77. "... an efficient system of education must have as its goal to provide each and every child with at least the seven following capacities: i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization; ii) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices; iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness; v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market." *Rose*, 790 S.W.2d, at 212.

78. *Id.* at 212, 216.

79. Before announcing its opinion, the court conferred with the governor and legislative leaders and provided a draft to them two days earlier. Garrett, *supra* note 65, at 1A.

80. Tom Loftus, *Kentucky's Entire System of Common Schools is Unconstitutional*, LOUISVILLE COURIER-JOURNAL, June 8, 1989, at 1A.

81. Vinik, *supra* note 53, at 79 (citing the LOUISVILLE COURIER-JOURNAL, June 9, 1989).

have generally been slow, piecemeal, and seldom in compliance with the constitutional mandate on the first attempt.<sup>82</sup> Also, the reforms were so comprehensive and complex that a legislature could not have researched and fully considered them in only ten months. In fact, Kentucky legislators had been studying education reform for years. They had visited other jurisdictions where reforms were being implemented and were prepared to enact a less extensive reform package if the equity suit failed.<sup>83</sup> The Prichard Committee attributed passage of the legislation to “seven years of lobbying, primarily by citizens and business.”<sup>84</sup> Interviews conducted in 1993 revealed that “[w]ithout exception, stakeholders credited the [Prichard] Committee with being *the* catalyst for elementary and secondary school reform in the state.”<sup>85</sup>

KERA was so ambitious that it was called a crusade, a miracle, and a model for the nation.<sup>86</sup> President Bush lauded the state’s “creative thinking” in its education reform, the *Education Guardian* in London praised Kentucky’s actions, and *The New York Times* described it as “the most sweeping education package ever conceived by a state Legislature.”<sup>87</sup> Indeed, when The Business Roundtable, an organization of about 200 chief executive officers who develop public policy positions on national issues, designed its Education Initiative in 1990, it used KERA’s bundle of reforms as its model.<sup>88</sup>

KERA’s interwoven fabric of reform consisted of three overarching components: curriculum, governance, and finance.

### Systemic Curriculum and Governance Reform

The most extraordinary aspects of KERA were its broad, multifarious education reforms and transfer of governance authority to local schools.

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82. MICHAEL A. REBELL, ET AL., *FISCAL EQUITY IN EDUCATION: A PROPOSAL FOR A DIALOGIC REMEDY A-1 to A-93* (Campaign for Fiscal Equity, Inc., 1995)(reviewing court decisions and legislative responses in ten states).

83. Sexton Interview, *supra* note 36..

84. *Id.*

85. CREDIBLE ADVOCACY, *supra* note 23, at 24-25; See also Editorial, LOUISVILLE COURIER-JOURNAL, April 11, 1990.

86. Bert T. Combs, *Creative Constitutional Law: The Kentucky School Reform Law*, 28 HARV. J. ON LEGIS. 367 (Summer 1991): “Kentucky has now decided to become educated and has embarked on a crusade to accomplish that objective. Do not be surprised if we should, within the next decade, develop a first-class educational system. Most people would think that is impossible. But Kentuckians do not know that it is impossible. So we might just go ahead and do it.” See also ACORNS IN A MOUNTAIN POOL, *supra* note 6, at 3 (“a miracle”); *School Finance Reform*, *supra* note 19, at 345 (1993) (“a model for the nation”).

87. Combs, *supra* (citing *Kentucky Ahead of Fields in LMS*, EDUCATION GUARDIAN (London), July 3, 1990, at 1); *Starting Over*, N.Y. TIMES, April 8, 1990, at 34; *Bush Lauds Kentucky for Efforts to Reform Schools*, LEXINGTON HERALD-LEADER, April 5, 1990, at A8; *Kentucky’s Bold Reforms*, SAN ANTONIO EXPRESS-NEWS, April 4, 1990.

88. Trainman Interview, *supra* note 33; *An Introduction to The Business Roundtable* (www.brtable.org n.d. [1998]).

No other state has attempted such a comprehensive reform strategy through legislation.<sup>89</sup> The authors of KERA believed that the reform initiatives would complement one another, that removing any one would destroy the synergy and strength of the whole. They also re-created the Kentucky Department of Education, reduced its size, and refocused it on supporting the new initiatives.<sup>90</sup>

KERA's learning goals were extremely ambitious, reaching beyond gaining parity with other states.<sup>91</sup> To propel its public education system to such heights, KERA mandated and funded many education and governance initiatives statewide. They included school-based management councils, a primary program in place of grades K-3, extensive professional development, performance-based assessments, an accountability system of rewards and sanctions, and vastly expanded use of technology. KERA also provided support services, such as early childhood programs for at-risk and disabled children, family resource and youth service centers, and extended school services.<sup>92</sup>

KERA shifted decision-making to local schools by requiring every school to form a school-based management council consisting of the principal, three teachers elected by the teachers, and two parents elected by the school's parents. The councils have authority to establish policies regarding curriculum, textbooks, instructional practices, staff assignments, discipline, and the school budget, including professional development; they also select the principal when a vacancy exists. Through the councils and provisions for parental involvement in the pre-school and primary programs, KERA envisioned on-going dialogue between parents, other citizens, teachers, administrators, and staff, thus bringing communities together to decide school issues. In 1992, the General Assembly added requirements for minority representation on councils for schools with eight percent or more minority students, and for recruitment and retention of minority educators, which further encouraged a broad-based involvement.<sup>93</sup>

Kentucky's most radical change to teaching practices was its primary program, intended to reduce retention which, before reform, was 22% by the third grade. The primary program's "critical attributes" include: "developmentally appropriate educational practices; . . . authentic assessment; qualitative report-

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89. *Id.*; Debra Viadero, *A Living Laboratory*, EDUC. WEEK 38 (January 14, 1998).

90. KYNA KOCH & TOM WILLIS, KENTUCKY DEP'T OF EDUC. AND KENTUCKY LEGISLATIVE RESEARCH COMM'N, THE KENTUCKY EDUCATION REFORM ACT OF 1990: A REVIEW OF THE FIRST BIENNIUM iv (March 18, 1993); KY. REV. STAT. ANN. § 156.005, *et seq.* (Michie 1996).

91. Interview with Pam Coe, Appalachia Educational Laboratory, Principal Investigator, Study of KERA Implementation in Small, Rural Districts (Jan. 21, 1998).

92. KY. REV. STAT. ANN. §§ 156.095, 156.660 *et seq.*, 157.226, 157.317-318, 157.497, 158.030, 158.070, 158.360, 158.645 *et seq.*, 160.345 (Michie 1996). Many initiatives were not funded separately, but overall state funding increased significantly at the same time that they were instituted.

93. KY. REV. STAT. ANN. §§ 160.345, 161.165 (Michie 1996).

ing . . . and positive parental involvement.”<sup>94</sup> The primary program freed some teachers to be creative and extraordinarily effective, while others floundered.<sup>95</sup> For teachers of all grades, KERA emphasized more advanced content, critical thinking, writing, and application of knowledge.<sup>96</sup> Many teachers and administrators, who were schooled in different teaching and learning approaches, wanted professional development and instructional programs to assist them in making the necessary transitions.<sup>97</sup>

The most controversial provisions of KERA were those holding teachers and principals accountable for student performance. The business community in particular considered accountability a critical feature of education reform.<sup>98</sup> Pursuant to the new law, the state developed a new assessment system to measure student achievement for each school, which, in turn, determined financial incentives and possible sanctions for teachers and principals. The accountability system is improvement-driven: it set the same 20-year goal for all schools and, recognizing that schools started at different levels of achievement, is measuring progress in each school at two-year intervals.<sup>99</sup>

### Education Finance Reform

KERA set up the Support Education Excellence in Kentucky (“SEEK”) program to increase overall public school spending and, at the same time, reduce the disparity in per pupil spending among school districts.<sup>100</sup> The new

94. KY. REV. STAT. ANN. §§ 156.160, 158.030 (Michie 1996); DILEMMA TO OPPORTUNITY, *supra* note 3, at 27.

95. Holly Holland, *KERA: A Tale of One Teacher*, 79 PHI DELTA KAPPAN 265 (December 1997); See also KENTUCKY INSTITUTE FOR EDUCATION RESEARCH, THE IMPLEMENTATION OF KENTUCKY’S PRIMARY PROGRAM 1995: A PROGRESS REPORT (June 1995) (recommending extensive professional development for primary teachers who were struggling).

96. KY. REV. STAT. ANN. § 158.645 (Michie 1996).

97. TOM CORCORAN, SHIFTING GEARS: PROVIDING PROFESSIONAL DEVELOPMENT THAT PROMOTES HIGH ACADEMIC PERFORMANCE (1997); G. WILLIAMSON McDIARMID, REALIZING NEW LEARNING FOR ALL STUDENTS: A FRAMEWORK FOR THE PROFESSIONAL DEVELOPMENT OF KENTUCKY TEACHERS 7-21 (n.d. [1994]); *Special Feature: KERA Through the Eyes of Teachers*, NOTES FROM THE FIELD: EDUCATION REFORM IN RURAL KENTUCKY 4 (Appalachia Educational Laboratory, Charleston, W.V.), Sept. 1992; Coe Interview, *supra* note 91.

98. DILEMMA TO OPPORTUNITY, *supra* note 3, at vi. Accountability was the “overriding goal of KERA” (*id.*) and is crucial to continued support from business (Sexton Interview, *supra* note 36).

99. KY. REV. STAT. ANN. § 158.645 (Michie 1996). In contrast, Ohio holds school districts accountable for student scores on 14 tests and requires students to pass a ninth-grade proficiency examination to obtain a high school diploma. John Augenblick, Presentation at the National Conference of State Legislatures (November 8, 1997). In an extremely high-stakes accountability system, New York is phasing in a requirement that every student pass five rigorous examinations to obtain a high school diploma. New York State Education Dep’t, Press Release, *Regents Vote: Students Must Pass Regents Exams*, April 24, 1996. Ohio and New York have not yet funded their higher standards.

100. 2 DILEMMA TO OPPORTUNITY, *supra* note 3, at 34; MARY HELEN MILLER, ET AL., LEGISLATIVE RESEARCH COMMISSION, A GUIDE TO THE KENTUCKY EDUCATION REFORM ACT OF 1990 11-29 (April 1990) [hereinafter 1990 GUIDE TO KERA]; KY. REV. STAT. ANN. §§ 157.310-440 (Michie 1996).

law raised overall spending in two ways. First, it increased local school revenues by imposing a minimum "local equivalent tax rate" of 30 cents per \$100 of assessed property value and requiring all taxable real property to be assessed at 100% of fair market value.<sup>101</sup> Second, it increased state revenues for schools by raising the state sales tax from 5 to 6%, modifying corporate and individual income taxes, and eliminating the deductibility of federal income tax.<sup>102</sup> State revenues increased \$1.2 billion in the first biennium.<sup>103</sup>

As a result, average local and state per pupil revenues each increased by 21% in the first year of SEEK. During the pre-KERA 1989-90 school year, combined state and local revenue per pupil was \$3,049. By 1994-95, state and local revenue was \$4,628 per pupil, an increase of 52% or 26% adjusted for inflation.<sup>104</sup> Consequently, Kentucky's per pupil spending moved to 21st in the nation and teachers' salaries from 37th to 29th. Additional teachers were hired to reduce class sizes, and many school districts increased their spending on instructional materials significantly.<sup>105</sup>

SEEK reduced the disparity in per pupil spending among school districts by creating a three-part state funding formula that substantially equalizes resources at the district level. First, the General Assembly sets an annual Base Guarantee amount, which is the per pupil spending floor for all districts. The Base Guarantee is adjusted upward for exceptional children, transportation, at-risk pupils, and home or hospital services according to each district's student and transportation needs. This calculation produces each district's Adjusted Base Guarantee. The required "local effort" of 30 cents per \$100 of property value is the local contribution to the Adjusted Base Guarantee. The state provides the rest.<sup>106</sup>

The second part of the formula, Tier I, authorizes school boards to impose additional taxes to generate up to 15% of their district's Adjusted Base Guarantee. For districts whose per pupil property wealth is less than 150% of

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101. KY. REV. STAT. ANN. §§ 160.460, 160.470, 160.593-633 (Michie 1996). The law required reassessment of all property every four years. To end years of property assessment abuses, the law authorized the state to intervene if the local assessor failed to comply. Local revenue may be raised through property or other taxes, such as taxes on utilities. *Id.*

102. IRA CUTLER, ET AL., STATE INVESTMENTS IN EDUCATION AND OTHER CHILDREN'S SERVICES: CASE STUDIES OF FINANCING INNOVATIONS 27 (September 1995); Mark Schaver and Steve Durbin, *Bluegrass State Poll: Reform Act is Losing Support Poll Finds*, LOUISVILLE COURIER-JOURNAL, Feb. 23, 1994, at 1A.

103. Vinik, *supra* note 53, at 74 (citing Reagan Walker, *Lawmakers in Kentucky Approve Landmark School Reform Bill*, EDUC. WEEK 1 (April 4, 1990).

104. OEA 1996 ANNUAL REPORT, *supra* note 19, at 103, 105.

105. Koch & Willis, *supra* note 90, at 17; 2 FROM DILEMMA TO OPPORTUNITY, *supra* note 3, at 35; KENTUCKY DEPARTMENT OF EDUCATION, GOING FOR THE GOALS . . . AND BEYOND 12 (n.d.[1996]).

106. OEA 1996 ANNUAL REPORT, *supra* note 19, at 97-98. The 1995-96 Base Guarantee was \$2,593; for all districts, the Adjusted Base Guarantee was higher. *Id.*

the statewide average, the state provides a portion of these funds.<sup>107</sup> The third part of the formula, Tier II, permits districts, subject to voter approval, to raise up to 30% more than the sum of the Adjusted Base Guarantee plus Tier I. The state does not contribute to Tier II funds. The Facilities Support Program also improves equity because it equalizes local funds dedicated to construction or major renovation in the same manner as Tier I. To qualify, districts levy an additional tax of at least five cents per \$100 of assessed property value for facilities.<sup>108</sup>

School boards increased local taxes far more than expected when SEEK became law, another indication that taxpayers were willing to pay more for better schools.<sup>109</sup> By 1996-97, all districts participated in the Tier I option, while voters in 161 of the state's 176 districts approved taxes under Tier II. The amount of additional revenue each district may raise through Tier I and Tier II depends on the Base Guarantee. Therefore, every district has a vital interest in the annual Base Guarantee amount chosen by the General Assembly.<sup>110</sup>

Because of its equalization factors, SEEK increased funds available in lower property-wealth districts dramatically, while funds available in higher property-wealth districts increased more slowly. From the 1989-90 school year to 1994-95, the lowest quintile's average revenue grew from \$3,127 per pupil to \$5,281, while the highest quintile's average revenue moved from \$4,376 per pupil to \$5,789. The state's share of average total revenue ranged from 73% in the lowest quintile to 45% in the highest.<sup>111</sup> Still outstanding is a proposal to move several categorical programs into the SEEK calculation because categoricals usually dilute the equity of a finance system.<sup>112</sup>

KERA's finance reforms have greatly improved the adequacy and equity of school funding in Kentucky. Not surprisingly, the education and governance reforms have taken longer to implement, and their results are less immediate. Although there have been some improvements in student achievement to date,

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107. For example, if the district's average per pupil property wealth is \$140,000 and 150% of the statewide average is \$336,000, then the local share of Tier I is 42%—\$140,000 divided by \$336,000—and the state share is 58%.

108. NOTES FOR THE FIELD: EDUCATION REFORM IN RURAL KENTUCKY (Appalachia Educational Laboratory, Charleston, W.Va.), Apr. 1992 at 33-35.

109. Koch & Willis, *supra* note 90, at 22. The state was taken by surprise and could not fully fund the equalization the first year. *Id.*

110. OEA, KENTUCKY GENERAL ASSEMBLY, ANNUAL REPORT 134-35 (December 1997).

111. OEA 1996 ANNUAL REPORT, *supra* note 19, at 103. The quintiles are those districts representing 20% of the state's students. The highest property-wealth quintile consists of four districts, including the state's two large urban districts. OEA, KENTUCKY GENERAL ASSEMBLY, ANNUAL REPORT 45 (December 1993). All three middle property-wealth quintiles averaged less revenue in 1994-95 than the lowest and highest quintiles—from \$4,814 to \$4,997 per pupil. OEA 1996 ANNUAL REPORT, *supra* note 19, at 103.

112. *Id.* at 99. The categorical programs include extended school services, pre-school, professional development, family resource and youth service centers, technology, and gifted and talented.

the full effects of Kentucky's transformation of its educational system are yet to emerge.<sup>113</sup>

#### IV. Implementing Reform: Outreach and Public Information Campaigns

##### The Partnership for Kentucky Schools

In 1991, the CEOs of UPS, Ashland Inc., and Humana Inc., major Kentucky employers, formed the Partnership for Kentucky Schools ("the Partnership"),<sup>114</sup> which describes itself as a nonpartisan coalition of leaders from business, government, agriculture, labor, and education. It is dedicated to promoting public understanding and support for the implementation of the education reform goals, providing a forum for identification and resolution of problems and concerns, and securing technical assistance and expertise.<sup>115</sup> The Partnership "carries out its mission in close cooperation with the Prichard Committee." It avoids doing what others can do, and instead finds and fills gaps in the implementation process.<sup>116</sup>

The Partnership's broad-based membership is unusual. Although all three founders were business leaders, they decided that a coalition would be more effective than a partnership limited to business.<sup>117</sup> In practice, the power and diversity of the organization forces people to stay at the table to avoid the risk of being left out of important decisions. On two occasions, when there was the potential for major rollbacks of the reform legislation, the Partnership asked its members to sign on to a position supporting the principles of the reforms. Each time, all fifty-five members signed a letter published in newspapers that reached one million readers in a state of 3.7 million people. Opponents have

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113. *Id.* at 95-122; Douglas S. Reed, *Twenty-Five Years After Rodriguez: School Finance Litigation and the Impact of the New Judicial Federalism*, LAW & SOCIETY REV. (March 1998) (illustrating magnitude and persistence of fiscal equity improvement in Kentucky); Jacob E. Adams, Jr., *School Finance Policy and Students' Opportunities to Learn: Kentucky's Experience*, FINANCING SCHOOLS 83-85 (Winter 1997) [hereinafter *Kentucky's Experience*]. For student achievement, see KENTUCKY EDUCATION DEPARTMENT, KENTUCKY SCHOOL AND DISTRICT ACCOUNTABILITY RESULTS (December 4, 1997); DILEMMA TO OPPORTUNITY, *supra* note 3, at 17; Viadero, *supra* note 89, at 38.

114. Ashland Inc., the parent of Ashland Oil, is headquartered in Ashland, Kentucky, and Humana is the nationwide health and hospitals corporation headquartered in Louisville. The Partnership emerged out of The Business Roundtable's encouragement of state-by-state business support for education reform.

115. DILEMMA TO OPPORTUNITY, *supra* note 3, at ii.

116. 2 DILEMMA TO OPPORTUNITY, *supra* note 3, at iii; Jones Interview, *supra* note 29.

117. Jones Interview, *supra* note 29; Traiman Interview, *supra* note 33. Members include: CEOs of major Kentucky businesses; the Chamber of Commerce; governmental leaders, such as the governor, legislators, and the Commissioner of Education; and statewide education organizations, such as those representing teachers, school boards, administrators, school-based councils and the Kentucky PTA; the Farm Bureau; the AFL/CIO; Kentucky Educational Television; and the publishers of the state's two largest newspapers. CREDIBLE ADVOCACY, *supra* note 23, at 6.

been unable to play the constituencies represented by members of the Partnership against one another. <sup>118</sup>

Whatever the strategic advantages of its diverse membership, the Partnership's staff originally found the combination of organizations awkward. When considering something as basic as how to organize a meeting, the staff realized that business leaders, educators, legislators, union leaders and other members had their own ideas about what a meeting should be and how it should be conducted. The staff has created solutions by designing new approaches, rather than adopting any particular group's preference. <sup>119</sup>

The Partnership's mission includes raising public awareness through radio, television, the press, its own publications, and a speakers bureau. About 75% of Kentucky's citizens do not have children in school, so they need reliable information about school reform and the way their tax dollars are being spent. Only about 3% of this target audience was aware of the extensive school change under way when the Partnership and others began to publicize the reforms. Now over 40% of the target audience at least knows that there is a huge effort underway to improve the schools and that schools are being held accountable. <sup>120</sup>

The Partnership also recruits Kentucky businesses of all sizes to take on a variety of "business initiatives." In Hopkinsville, for instance, the businesses in town sponsored a teacher appreciation dinner before school began in September 1997. That summer, the local insurance agency hosted three elementary school teachers, who learned first hand the communications and computer skills successful applicants for employment must have. On a larger scale, the UPS International Customer Service Center adapted and provided its *Courtesy Plus* training to every secretary in the Jefferson County Public Schools, a district of 76,000 students. Beginning in 1998, the Partnership has encouraged businesses to initiate community dialogues around its Essential Skills program to improve the workplace readiness of high school graduates. <sup>121</sup>

The Partnership's budget has changed over the years, although the companies of the three founding CEOs consistently provide most of the funding. The total budget averages \$750,000 to \$850,000, with a staff consisting of the

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118. Jones Interview, *supra* note 29. Ms. Jones attributes some of the success of the Partnership to the negotiating skills of "Oz" Nelson, a founding member of the Partnership and now retired CEO of UPS.

119. *Id.*

120. *Id.* In its first year alone, the Partnership's public information campaign spent over \$1 million on advertising. It communicates in a "citizen's language" and tests its materials for readability. The Partnership continues to publish weekly quarter-page advertisements on the op-ed page of the LEXINGTON HERALD-LEADER.

121. The Partnership for Kentucky Schools, Business Connections for Excellence in Education (n.d. [1997]); Interview with Tom Bell, parent, entrepreneur, and owner of the State Farm Agency in Hopkinsville, Kentucky (October 21, 1997); Cindy Read, *No Ideas But in Things* (Partnership for Kentucky Schools, Lexington, Ky.) Vol. 6, No. 2 (Fall 1997); The Partnership for Kentucky Schools, Ready for Work: Essential Skills for Kentucky Jobs (March 1998).

Director and two assistants. In 1997, a typical year, the public information budget of \$380,000 paid for public surveys, messages in support of teachers, weekly newspaper advertisements, and over one million eight-page full-color newspaper inserts explaining how strong standards are boosting student learning in Kentucky.<sup>122</sup>

### Encouraging Civic Participation

With KERA enacted and its original goals realized, the Prichard Committee dramatically shifted its mission to "monitoring reform and marshaling public support for change" and undertook specific strategies to accomplish those goals.<sup>123</sup> The committee, the Kentucky PTA, and others believe that the package of reforms will realize its full potential only with significant parental and community involvement.<sup>124</sup> The Prichard Committee sees its role in this process as one of helping people re-engage in civic life by practicing the skills of citizenship and encouraging others to do the same in their schools and communities.<sup>125</sup> Therefore, in the early 1990s the committee reached out across the state to draw parents into their local reform process through its regional coordinators, who helped identify and train members of local Citizens' Committees for Education (CCEs) in 88 of the state's 176 school districts.<sup>126</sup> For parents on the new school councils, the committee offered training and workshops, and also organized a statewide pro bono legal advisory group.<sup>127</sup>

Similarly, the Kentucky PTA redefined its mission to champion parental involvement on school councils and council committees. Before KERA, parents were not called on to make decisions on school budgets, curriculum, and professional development. In many locations, the PTA has helped administrators and parents learn to trust one another and become comfortable with their

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122. Jones Interview, *supra* note 29; THE PARTNERSHIP FOR KENTUCKY SCHOOLS, REACHING HIGHER: UNDERSTANDING HOW STRONG STANDARDS BOOST STUDENT LEARNING IN KENTUCKY (n.d. [1997]). In addition to the major funders, the Partnership applies for grants from foundations; member organizations, such as the banks, donate annually from \$5,000 to \$20,000 each.

123. Heine Interview, *supra* note 24. The committee's reputation as an independent, credible monitor, along with Kentucky's national leadership in education reform, generated foundation and corporate financial support that enabled the committee to expand to as many as 15 staff, including six part-time regional coordinators. CREDIBLE ADVOCACY, *supra* note 23, at 3, 11, and 19.

124. Bell Interview, *supra* note 121; Interview with Karen Jones, President, Kentucky PTA (February 12, 1998 and April 14, 1999). Mr. Bell was a 1996 member of the Prichard Committee and served on the school council of his daughter's school and the School-Based Decision Making Advisory Council to the State Education Commissioner.

125. Roy Hoffman, *Kentucky's Long Road to Better Schools*, THE FORD FOUNDATION REPORT 8 (Summer/Fall 1996). The committee also increased its membership to 100. *Id.* Robert F. Sexton, *School Reform is Not a Spectator Sport*, EDUC. WEEK (October 28, 1992).

126. Heine Interview, *supra* note 24.

127. Bev Raimondo, *Bringing Resources to You in Your Community*, PERSPECTIVES (The Prichard Comm., Lexington, Ky.), July-September 1996, at 3.

changed roles. Despite turnover and the many demands on parents' time, involvement has "gotten better every year. But we still have a long way to go."<sup>128</sup>

In the Appalachian region, Forward in the Fifth helped alleviate parents' initial fears about reform and found them receptive to changes in their children's schools. Between 1990 and 1992, Forward in the Fifth traveled in a "KERA Caravan" to a dozen meetings around the region, each attended by over 200 people. Concentrating on school-based councils, the primary program, performance-based assessment, and technology, state officials briefly explained what the law said. A panel of local educators and parents then shared examples of what these initiatives looked like in their schools. Lively discussions followed, especially among the audience and local panelists. Participants were so engrossed that it was difficult to bring the meetings to a close.<sup>129</sup>

Forward in the Fifth's premise is that local people know best, so it assumes the role of disseminating information and providing technical support. With funds raised primarily from foundations, it distributes "mini-grants" through its local affiliates. By 1996, it had distributed mini-grants worth \$450,000 to 1,500 teachers, about 30% of the teachers in the region. Its highly-regarded monthly newsletter, *Fast Forward*, reports successes of students and teachers in classrooms, shares Affiliates' innovative programs and projects, and features ways parents and communities can help children learn. Forward in the Fifth supports library media centers and their collaboration with teachers, sponsors professional development throughout the year, and brings people in the region together in pursuit of its mission "to ensure all children have the educational opportunities necessary to live full and productive lives."<sup>130</sup>

A newer organization, the Kentucky Alliance of Black School Educators, is encouraging African-American parents and community members to become more involved in their schools and co-sponsoring, with the Department of Education, an administrative leadership program that trains educators to become principals and superintendents. The organization's Parental Involvement Workshops are in great demand. In October 1997, after a successful workshop in Paducah, the Alliance was invited to present a workshop in Christian County. From a town of 30,000, 150 local parents attended a Friday evening parent roundtable and Saturday series of seven workshops, such as ACT/SAT

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128. Karen Jones Interview, *supra* note 124.

129. Eager Interview, *supra* note 9. This 1990-92 effort is the most intense "public engagement" Forward in the Fifth has undertaken. Local participants' views were the center of attention. *Id.*

130. *Id.*; *Forward in the Fifth: 10 Years of Service* (1996); FAST FORWARD, (Forward in the Fifth, Berea, Ky.) June, 1997. Classroom teachers, who have successfully utilized the approaches they are presenting, lead many of its professional development sessions. The Appalachian Writing and Appalachian Heritage sessions are the first to "sell out." Science sessions convey substantial subject matter content for elementary and early middle school teachers. *Id.* at 8-9.

preparation, special education and African-American children, and school councils. The Alliance prides itself on talking with parents, not at them.<sup>131</sup>

The Prichard Committee continues its statewide outreach through a massive effort to disseminate information as broadly as possible. The committee maintains strong media contacts based on its long-standing reputation for trustworthiness.<sup>132</sup> Even so, the committee finds that providing the public with information and the opportunity to absorb it through thoughtful discourse is an immense task. Difficult challenges arise, such as how to explain that helping all children learn does not mean taking something away from the children who are already high performers. The committee's research shows that "parents are inclined to believe the opposite, that if their child is doing fine then any change will diminish their share." Allaying such fears often requires many one-on-one discussions.<sup>133</sup>

Although the Prichard committee continues to emphasize collaboration with other groups, conflicts have developed with the Kentucky School Boards Association and some superintendents. The committee's commitment to parental involvement and school councils runs counter to the views of many school board members, some of whom filed lawsuits to challenge the governance and anti-nepotism provisions of the reforms.<sup>134</sup> Many superintendents have retired in the wake the reforms, and some have characterized the committee as "the enemy" and "elitist." Some teachers and administrators consider the committee to be meddlers.<sup>135</sup>

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131. Interview with Kathryn Wallace, President, Kentucky Alliance of Black School Educators (February 11, 1998 and April 13, 1999); Bell Interview, *supra* note 121. The Alliance's first mission is to attract people who will "affirm the inherent worth, dignity, and educability of minority children" to careers in education. It held workshops in Lexington in 1998 and in Christian County and Jefferson County (Louisville) in 1999. Wallace Interview.

132. CREDIBLE ADVOCACY, *supra* note 23, at 8-9, 25-26; *Kentucky's Experience*, *supra* note 113, at 89-92. In addition to its quarterly newsletter, biennial binder on education for legislators, periodic articles submitted to all daily and weekly papers in the state, and its monthly news clippings packet mailed to over 5,000 interested citizens, the committee publishes practical guides, updated as needed, such as: THE PRICHARD COMMITTEE AND THE PARTNERSHIP FOR KENTUCKY SCHOOLS, KENTUCKY SCHOOL UPDATE: A PARENT GUIDE FOR 1997-98 (September 1997) [hereinafter GUIDE FOR 1997-98]; THE PRIMARY SCHOOL: A RESOURCE GUIDE FOR PARENTS (1993); SCHOOL-BASED DECISION MAKING: A GUIDE FOR SCHOOL COUNCIL MEMBERS AND OTHERS (1994); A SCHOOL BUDGET PRIMER: CITIZENS' GUIDE TO SCHOOL FINANCE (1993).

133. Sexton Interview, *supra* note 36.

134. The reforms made 50% of Kentucky school board members ineligible to run for re-election because they had close relatives working in the school district. Eager Interview. The courts upheld the statutes. See *Chapman v. Gorman & LRC Office of Educ. Accountability*, 839 S.W.2d 232 (Ky. 1992) (upholding anti-nepotism provisions of KERA); *Kentucky Dep't of Educ. v. Risner*, No. 95-SC-458-T (Jan. 18, 1996) (same); *Bushee v. Boone County Bd. of Educ.*, 889 S.W.2d 809 (Ky. 1994) (holding school board exceeded its authority when it gave itself veto power over school council decisions); KY. REV. STAT. ANN. § 160.180 (Michie 1996).

135. CREDIBLE ADVOCACY, *supra* note 23, at 11, 28.

The committee has found that advocating for major changes in the governance of local schools and in classroom practices is much more difficult than channeling public frustration with the former status quo.<sup>136</sup> Individual school communities, teachers, or administrators determine how, and sometimes even if, certain reforms are implemented. Some teachers and administrators encourage parental involvement, while others actually discourage it.<sup>137</sup>

The Family Foundation, an opponent of the reforms, has also reached out to the citizens of Kentucky. In town meetings around the state, the foundation criticized the reforms as a re-hash of the progressive education movement.<sup>138</sup> The foundation is particularly concerned with Kentucky's teacher training methods, such as what it sees as an exclusive adoption of the whole-language approach to reading instruction. It attributes to KERA the "idea that we have to get away from basic skills and go to higher order skills without a foundation in the basics," even though polls show that basic skills are among parents' top priorities for their children's schools.<sup>139</sup>

Reform proponents acknowledge that some school board members, teachers, and parents disagree with specific aspects of the reforms, but they attribute blanket opposition to the reforms as a whole to the religious right.<sup>140</sup> Opponents on the right viewed the reforms as an attempt to usurp parental authority and attack traditional values.<sup>141</sup> Interestingly, although the Appalachian region is part of the Bible Belt and considered conservative, the opposition has made no headway there, perhaps because the educational needs were so great.<sup>142</sup>

In 1994, after finding that many parents were confused by the reforms, unhappy with the changes occurring in their children's schools, or not partic-

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136. Heine Interview, *supra* note 24; Robert F. Sexton, Citizen Reformers: The Prichard Committee Experience, Speech delivered November 1, 1994 to The Charles A. Dana Symposium at the New School for Social Research [hereinafter Citizen Reformers].

137. *Kentucky's Experience*, *supra* note 113, at 91 (citing OEA, ANNUAL REPORT 151 (December 1995)); NOTES FROM THE FIELD: EDUCATION REFORM IN RURAL KENTUCKY (Appalachia Educational Laboratory, Charleston, W.Va.) Sept. 1992 at 6-7 (identifying school principals as facilitators or barriers to reform); STEVE KAY & RONA ROBERTS, PARENT INVOLVEMENT: NEW CHALLENGES 2-3 (Roberts & Kay, Lexington, Ky., June 1994).

138. Interview with Martin Cothran, Policy Analyst, The Family Foundation (February 12, 1998). See also DIANE RAVITCH, THE TROUBLED CRUSADE 43-80 (1983); ARTHUR E. BESTOR, EDUCATIONAL WASTELANDS (1953).

139. Cothran Interview, *id.* See also PUBLIC AGENDA, FIRST THINGS FIRST (1995). But see KERA at KY. REV. STAT. ANN. § 158.6451 (MICHIE, 1996) (emphasizing basic skills).

140. Heine Interview, *supra* note 24; Karen Jones Interview, *supra* note 124; Citizen Reformers, *supra* note 136, at 6. See also *A Pitiful Session: Frankfort Misplaced the Priorities*, LEXINGTON HERALD-LEADER, March 1, 1998.

141. CREDIBLE ADVOCACY, *supra* note 23, at 28 (citing J. A. Thomas, *Eagle Forum Opening Fire Against KERA*, THE MAYFIELD MESSENGER, May 21, 1993). See also, *Health Care in Schools? THE KENTUCKY CITIZEN DIGEST* (The Family Foundation, Lexington, Ky.), July/August 1996, at 6.

142. Eager Interview, *supra* note 9. Nine of the 39 counties where Forward in the Fifth has its Affiliates are among the 25 poorest counties in the United States. *Id.* See also Hoffman, *supra* note 125, at 8.

ipating in their local school councils and school council elections,<sup>143</sup> the Prichard Committee and the Partnership jointly retained consultants to conduct a series of focus groups with parents of Kentucky public school students. Sixty parents in six communities were asked about their involvement in their children's education. Most parents felt distanced from their children's schools—even more so since the implementation of the unfamiliar components of reform.<sup>144</sup> Others, however, were highly involved in their children's education and praised their schools because they created "a consistent climate of welcome and support for parents, encouraging and assisting them in their involvement with their children's learning both at home and at school." The focus group discussions revealed that parents' involvement in their children's schools depended almost entirely on the degree to which they felt welcome.<sup>145</sup>

The focus group consultants concluded: "Parents have no mechanisms, no familiar cultural practices, no public forums for working with each other to come to understand the different pulls on the public schools, and to develop shared strategies with their peers and others in the community to make the schools as good as they can be. To make matters worse, parents seem not to recognize the need for these ways of talking things through, and have not identified their absence."<sup>146</sup> In essence, this situation revealed a classic need for public engagement and a revitalization of civic life in school communities.<sup>147</sup>

In response to these and similar findings, the Prichard Committee re-evaluated its approaches to involving parents and communities in their schools. The committee concluded that the CCEs it had promoted and supported were not being effective enough. Therefore, the committee is sponsoring structured dialogues among parents and teachers, focusing on "what we want for our children in our school and how to get there." Initially, the committee provided facilitators; now its regional coordinators train local facilitators. Because these are four-hour sessions, the committee contributes \$100 towards the cost of a meal. The committee believes that teachers and parents appreciate each other more after these sessions which, by the end of 1997, had been held in over 300 schools with over 4,000 participants.<sup>148</sup>

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143. Alice H. Davis, *Parent Involvement Projects Top Committee's Agenda*, PERSPECTIVES (Prichard Comm.), July-September 1994, at 1.

144. Kay & Roberts, *supra* note 137, at 1-3, 29. Parents felt less able to contribute in familiar ways to their children's education, such as studying spelling and math facts, if these were no longer tested in traditional ways. *Id.* at 20-21.

145. *Id.* at 1-4, 28-29.

146. *Id.* at 28.

147. See, e.g., Robert B. Westbrook, *Public Schooling and American Democracy*, in DEMOCRACY, EDUCATION, AND THE SCHOOLS 125 (Roger Soder, ed. 1996); James G. Ward, *Schools and the Struggle for Democracy in WHO PAYS FOR STUDENT DIVERSITY?* 241 (James G. Ward & Patricia Anthony, eds. 1992).

148. Heine Interview, *supra* note 24; Robert F. Sexton, *Viewpoints*, PERSPECTIVES (Prichard Comm.), July-September 1996, at 2.

In the most ambitious program it has ever undertaken, the Prichard Committee, in conjunction with the Kentucky PTA and the Association of Older Kentuckians, has created the Commonwealth Institute for Parent Leadership.<sup>149</sup> With support from national foundations,<sup>150</sup> and from local foundations, businesses, and individuals, the institute trained 100 parents in 1997 and 180 in 1998. It will train 200 parents in each of the next two years at eight regional sites around the state. Each of the institute's classes consists of 25 participants, primarily parents and a few grandparents, who meet in three two-day sessions during the year.<sup>151</sup>

The institute provides participants with the necessary information and skills to work effectively in collaboration with their local schools to improve student achievement. They work with their schools to design and implement projects that are: tailored to their schools' particular needs, have a lasting impact, focus on student achievement, and get other parents involved. Some successful projects, for instance, have been "portfolio nights" in which parents learn about portfolios and figure out how they can help teachers and students in the portfolio development process. More than any other program the institute is aware of, it gets parents involved in substantive ways that improve student achievement.<sup>152</sup>

Also in 1994, the Partnership became aware that school personnel sometimes rebuffed businesses and parents who were trying to get involved in their local schools. These occurrences spawned a unique Partnership program, "Welcoming Schools." Using research from the Effective Schools model, the Partnership developed a list of characteristics of Welcoming Schools. Welcoming Schools have a feeling about them, a friendly atmosphere for everyone who enters. They encourage participation from parents and grandparents and are a source of pride to their communities. Started as a low-key project, it "rang a bell." Last year, 200 of Kentucky's 1,400 schools applied, hoping to be selected as one of ten annual award winners. Winners receive an impressive banner and plaque

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149. Robert F. Sexton, *Engaging Parents, Communities Will Make Better Kentucky Schools*, in THE KENTUCKY CITY (Kentucky League of Cities), August 1997, at 14; *Prichard Committee Announces Parent Leadership Institute*, PERSPECTIVES (Prichard Comm.), July-September 1996, at 1. The PTA is the largest voluntary association in Kentucky advocating for children and youth, with approximately 160,000 members. The Association of Older Kentuckians brings together senior citizens to solve common problems and encourages cooperation between the generations. COMMONWEALTH INSTITUTE FOR PARENT LEADERSHIP (n.d. [1996]).

150. The largest contributions are \$1 million each from the Pew Charitable Trusts and the W.K. Kellogg Foundation. *Fundraising News*, PERSPECTIVES (Prichard Comm.), Fall 1998, at 2.

151. *The Commonwealth Institute for Parent Leadership Names Honorary Board*, PERSPECTIVES, (Prichard Comm.), October-December 1997, at 1; *Commonwealth Institute for Parent Leadership Begins*, PERSPECTIVES, April-September 1997, at 1; Interview with Bev Raimondo, Director of the Commonwealth Institute for Parental Leadership (April 14, 1999).

152. *Id.*; *The Commonwealth Institute for Parent Leadership Names Honorary Board*, PERSPECTIVES, (Prichard Comm.) October-December 1997, at 1.

for their school and are "wined and dined" by the Partnership. "They tell us that being able to come to Louisville or Lexington to be recognized by state leaders is great." The program also benefits schools that do not apply for the awards because school councils are using the list of characteristics to assess themselves and set priorities.<sup>153</sup> The Welcoming Schools program is a good example of the Partnership finding a gap in the implementation process and filling it.

## V. Implementing Reform: Educators and Legislative Adjustments

Reform proponents have praised the General Assembly for making adjustments to KERA while standing firmly behind the principles of the legislation.<sup>154</sup> In the face of stagnant state revenues between 1991 and 1993, the state reduced spending for all state agencies except elementary and secondary education. This legislative ownership has furthered implementation of the reforms because educators perceived them as "here to stay."<sup>155</sup> Nonetheless, the legislature's expectations of what teachers and parents could do and how quickly they could do it proved overly sanguine.<sup>156</sup>

Although the Education Coalition, which includes the state's education interest groups, has consistently supported the reforms, reactions from individual teachers and administrators have been mixed. A record number of veteran teachers retired in 1993 and 1994—a fact attributed by some to the reforms. Additional time needed for preparation and collaboration with colleagues has extended working hours into more evenings and weekends.<sup>157</sup> The stress on teachers has been exacerbated because high-stakes assessments began before corresponding curriculum changes were in place and because students are not yet held accountable for their own performance.<sup>158</sup> Supporters of Kentucky's reforms believe that some teachers have worked very hard on the

153. Carolyn Jones Interview, *supra* note 29; *Welcoming Schools Information* (Partnership for Kentucky Schools, Lexington, Ky.), n.d. [1997].

154. See, e.g., Diane Massell, et al., *Persistence and Change: Standards-Based Systemic Reform in Nine States*, in CPRE POLICY BRIEFS (Consortium for Policy Research in Education), March 1997, at 4; Cindy Heine, *Developments from the 1994 General Assembly*, PERSPECTIVES (Prichard Comm.), Special Legislative Edition 1994, at 1; GUIDE FOR 1997-98, *supra* note 132, at 5, 13.

155. *School Finance Reform*, *supra* note 19, at 342-43; NOTES FROM THE FIELD: EDUCATION REFORM IN RURAL KENTUCKY (Appalachia Educational Laboratory, Charleston, W.Va.), Feb. 1996 at 1 (quoting superintendent who said: "... one of the greatest things is we're on the same educational program we were on in 1990. That's never happened before . . ."); JACOB E. ADAMS, JR., LOCAL RESPONSE TO SCHOOL FINANCE REFORM IN KENTUCKY 14 (June 1993).

156. Coe Interview, *supra* note 91; *Kentucky's Experience*, *supra* note 113, at 91.

157. Holland, *supra* note 95, at 268 (citing Mark Schaver, *KERA Driving Some Teachers into Retirement*, LOUISVILLE COURIER-JOURNAL, July 4, 1994 at A-1); KENTUCKY EDUCATION ASSOCIATION & APPALACHIA EDUCATIONAL LABORATORY, FINDING TIME FOR SCHOOL REFORM: OBSTACLES AND ANSWERS vii-viii (1993) (concluding that "the driving force behind school reform is . . . teachers' time and energy.")

158. Sexton Interview, *supra* note 36.

implementation and are exhausted, while others have simply been resistant.<sup>159</sup> Some teachers and administrators feel that they are "rebuilding the airplane while flying it."<sup>160</sup>

The extent of teacher learning necessary to actualize the changes in classrooms has turned out to be enormous. In response to teachers' express need, the General Assembly authorized the option of using up to five additional academic days a year for professional development from 1992 to 1996. A basic infrastructure for professional development is now in place in every district and school, and the state provides \$23 per pupil per year in categorical support.<sup>161</sup> Initially, however, most professional development was "the usual sit 'n' git." Professional development and technical support are only now catching up with Kentucky's initiatives.<sup>162</sup>

A major part of the Partnership's mission has been to research and promote professional development for educators. The business community understands the need for professional development because business routinely spends five to ten percent of annual revenues on improving the quality of its workforce. The Partnership has conducted a series of extensive research projects on professional development for teachers and has offered recommendations in testimony before the joint education committee of the legislature. It also publicizes its research results to inform the public, support educators, and leverage positive policy decisions for on-going professional development.<sup>163</sup>

In response to criticisms of specific reforms and their implementation, the state has made adjustments but not abandoned the reforms. For example, early in the implementation, the Council of School Performance Standards developed seventy-five "valued outcomes" to describe what is expected of students. The outcomes included affective goals, such as group cooperation, tolerance of others, and a sense of self-worth, which critics felt intruded on personal values.

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159. Heine Interview, *supra* note 24.

160. *Kentucky's Experience*, *supra* note 113, at 93; Coe Interview, *supra* note 91. Due largely to high-stakes accountability, teachers sought detailed curriculum guidance from the Kentucky Department of Education, passing up the local flexibility in curriculum choices afforded under KERA. See DIVISION OF CURRICULUM AND ASSESSMENT DEVELOPMENT, KENTUCKY DEP'T OF EDUCATION, CORE CONTENT FOR ASSESSMENT (1996).

161. KY. REV. STAT. ANN. §§ 156.095, 158.070 (MICHIE 1996); 2 DILEMMA TO OPPORTUNITY, *supra* note 3, at 11-17; McDiarmid, *supra* note 97; G. WILLIAMSON McDIARMID, ET AL., PROFESSIONAL DEVELOPMENT UNDER KERA: MEETING THE CHALLENGE 2-4 (June 1997); Carolyn Jones Interview, *supra* note 29.

162. Coe Interview, *supra* note 91; Eager Interview, *supra* note 9; NOTES FROM THE FIELD: EDUCATION REFORM IN RURAL KENTUCKY (Appalachia Educational Laboratory, Charleston, W.Va.), Dec. 1994, at 2, 11-12; NOTES FROM THE FIELD, EDUCATION REFORM IN KENTUCKY, February 1996, at 1, 3-4.

163. Carolyn Jones Interview, *supra* note 29; 2 DILEMMA TO OPPORTUNITY, *supra* note 3, at 11-17; Corcoran, *supra* note 97. The Partnership's founders committed to 10 years of support for Kentucky schools. As the tenth year approached, the organization assessed its mission and has decided to continue its work, but it will broaden its base of support to include more businesses and emphasize local programs and initiatives. Carolyn Jones Interview, *supra* note 29.

The state eliminated the affective goals and reduced the outcomes to fifty-seven "academic expectations," but it retained the performance-based assessments and high academic standards related to the expectations.<sup>164</sup> Similarly, the primary program, after being criticized and modified, remains in effect with its essential features intact. The most controversial aspect of the primary program was inclusion of kindergarten students with all other students below fourth grade. Schools now have the flexibility to teach kindergarten separately.<sup>165</sup>

Assessments and accountability were the most controversial components of Kentucky's reforms. The original performance-based assessment system was sharply criticized by opponents within the state, and its validity was tested repeatedly. During its 1994 and 1996 biennial sessions, the General Assembly modified the assessments by removing mathematics portfolios, adding some multiple choice questions, and spreading the tests across more grades. They also removed performance events to improve year-to-year validity and added a norm-referenced national test, the CTSB (Comprehensive Test of Basic Skills), so that parents could compare their children's scores with those of students in other states. The accountability system's rewards and sanctions proceeded as planned, except that the General Assembly delayed the toughest sanctions.<sup>166</sup>

Some believe that accountability, whatever the weaknesses of the original accountability design, has served to awaken schools and teachers to the need for improvements. Positive responses were evident in elementary schools almost immediately, but the high schools were slower to take up the reforms, perhaps because they had less experience with interdisciplinary approaches. The 1996 assessment results may have finally pushed high schools to act because the most recent assessments, released in December 1997 and 1998, showed significant improvement in high schools for this biennium.<sup>167</sup>

By 1999 positive research reports and test scores began to add up to a consistent record of improvement in student achievement. Kentucky was one of only three states that made dramatic progress in reading, according to the National Assessment of Educational Progress (NAEP) results announced in

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164. Massell, *supra* note 154, at 6-7; KY. REV. STAT. ANN. § 158.6453 (Michie 1996).

165. The primary program confused parents, and sometimes schools implemented it poorly, in part because the state did not provide sufficient guidance or a model in the early years of the implementation. Eager Interview. See also, *Clarifying the Status of the Primary Program*, PERSPECTIVES (Prichard Committee), July-Sept. 1996, at 4.

166. Heine, *supra* note 154, at 2; Interview with Lois Adams Rogers, Kentucky Institute for Education Research (May 26, 1999); KY. REV. STAT. ANN. §§ 158.6453-6455 (Michie 1996).

167. Linda B. Blackford, *High Schools Ahead of KIRIS Curve; Middle Schools Lag*, LEXINGTON HERALD-LEADER, December 4, 1998, at B1; Heine Interview, *supra* note 24; Karen Jones Interview, *supra* note 124; Robert Rothman, *KERA: A Tale of One School*, PHI DELTA KAPPAN 272 (December 1997); KENTUCKY EDUCATION DEPARTMENT, KENTUCKY SCHOOL AND DISTRICT ACCOUNTABILITY RESULTS (December 4, 1997); The Partnership for Kentucky Schools, *Keeping The Commitment To Better Schools 2* (October 1997); Sexton Interview, *supra* note 36 ("[A]ccountability holds business.").

March 1999. Students are writing more, and those who do well on their final writing portfolios are gaining exemptions from college freshman composition. Kentucky's philosophy that all children can learn at high levels was born out when several high-poverty elementary schools scored among the state's top twenty in all subjects tested on the 1998 annual assessments. Thus, it appears that the reforms have begun to improve student achievement and are increasing the schools' capacity to foster academic success.<sup>168</sup>

In the 1998 legislative session, the General Assembly passed a bill that phased out the original assessments and accountability designed in the early 1990s and required the Department of Education to institute a new assessment and accountability system in 1999. The legislature authorized three advisory groups to oversee the process, one composed of educators and parents, one of legislators, and the third of national testing experts. In accordance with the new law, teachers had a significant role in designing the new Commonwealth Accountability Testing System (CATS), and the Department of Education emphasized communications with parents throughout the re-design process. CATS eliminates teacher and administrator bonuses—instead distributing rewards at the school level—and eliminates the most severe potential sanctions from the original system, but retains the writing portfolios, open-ended questions, and other features of the assessments that distinguish them from norm-referenced and multiple-choice testing. Students took their first CATS tests in April 1999.<sup>169</sup>

### Conclusion

Thus far, Kentucky has sustained the most long-lasting, comprehensive education reforms in the nation. Passage of the reforms was based on a growing awareness of the state's inadequate education system and won broad support from citizens, business, and education interest groups. Unlike most states,

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168. Linda B. Blackford, *National Test Puts Ky. Near Top in Reading Gains*, LEXINGTON HERALD-LEADER, March 5, 1999, at A1; *Helping Poor Students Achieve More*, THE NEW YORK TIMES, May 9, 1999; KENTUCKY EDUCATION DEPARTMENT, KENTUCKY SCHOOL AND DISTRICT ACCOUNTABILITY RESULTS (December 4, 1997); Interview with Sharon Hutchinson, Division of Assessment Implementation, Kentucky Department of Education (April 6, 1999); CPRE, CHANGES IN CLASSROOM PRACTICES UNDER KERA: A PRELIMINARY REPORT ON A FIVE-YEAR STUDY OF TEN SCHOOLS 13 (August 1995); *Kentucky's Experience*, *supra* note 113, at 86 (citing A. J. Nitko, et al., *Patterns of School Achievement* (May 1997) (unpublished manuscript prepared for KIER); KENTUCKY DEP'T OF EDUC., GOING FOR THE GOALS . . . AND BEYOND: HOW KENTUCKY IS ACHIEVING THE NATIONAL EDUCATION GOALS (n.d. [1996]); Viadero, *supra* note 89, at 39-40. *But see* David J. Hoff, *Board Won't Revise State NAEP Scores*, EDUCATION WEEK, May 19, 1999, at 1 (raising possible questions regarding increased scores in Kentucky and Maryland).

169. Linda B. Blackford, *New Test System Wins Final Approval, KIRIS Replacement Takes Effect in '99*, LEXINGTON HERALD-LEADER, April 2, 1998, at A1; Cindy Heine, *Answer Line*, PERSPECTIVES (Prichard Comm.), Fall 1998, at 8; Karen Jones Interview, *supra* note 124.

Kentucky has implemented a systemic package of curriculum and governance reforms and tied them to funding reform. It has maintained an unusually strong commitment to equity in funding. Although there is not yet conclusive evidence of improved student achievement at all grade levels, there are positive indications that the state of learning in Kentucky is improving.

Grassroots organizations, such as the Prichard Committee, Forward in the Fifth, and the Kentucky PTA, as well as broad-based coalitions like the Education Coalition and the Partnership for Kentucky Schools, have been instrumental in initiating the reforms, supporting parents and educators in their innovative and demanding new roles, and involving the broader community in education reform. These organizations and others with which they collaborate are striking in their apparent willingness to work together and coordinate efforts rather than compete for control or attention. Nevertheless, strong opposition has arisen, especially against some of the most ambitious reforms. These opposing voices will clearly play a role as the education reform process in Kentucky continues to unfold.